

Overview of Adjudications

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Q: What are the Gila River and Little Colorado River general stream adjudications?

A: The general stream adjudication is a judicial proceeding to determine or establish the extent and priority of water rights in the Gila River system and the Little Colorado River system. Thousands of claimants and water users are joined in these proceedings that will result in the Superior Court issuing a comprehensive final decree of water rights for both river systems. The adjudications are conducted pursuant to Arizona Revised Statutes [sections 45-251 to 45-264](#).

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Q: How did these adjudications start?

A: The Gila River and Little Colorado River adjudications trace their origins to proceedings initiated in the 1970s under the then-existing general adjudication procedures set forth in Arizona Revised Statutes sections 45-231 to 45-245. On April 26, 1974, the Salt River Valley Water Users' Association (SRP) filed a petition with the Arizona Land Department to determine the water rights in the Salt River above Granite Reef Dam (but excluding the Verde River). On February 24, 1976, SRP filed a similar petition for the Verde River and its tributaries. On February 17, 1978 and on April 19, 1978, utilizing these same statutes, the Phelps Dodge Corporation filed petitions with the State Land Department to determine the water rights of the Gila River system and source and the Little Colorado River system and source. These petitions sought adjudication of the Upper Gila River watershed and of portions of the Lower Gila River watershed. On April 3, 1978, ASARCO, Inc., filed a petition with the State Land Department for the adjudication of the San Pedro River and its tributaries.

On December 24, 1980, the Buckeye Irrigation Company filed a motion to intervene and a petition to enlarge the scope of the adjudication with respect to areas of the Gila River watershed not included in the previously filed petitions. This motion and petition were granted on March 17, 1981, and included the Agua Fria River watershed and portions of the Lower Gila River watershed. At the time, there was litigation pending in federal court which sought an adjudication of the Santa Cruz River watershed in Pima and Santa Cruz counties. Because of this litigation, the Maricopa County Superior Court, by granting the Buckeye Irrigation Company petition for adjudication of additional rights, did not include that portion of the Santa Cruz River watershed located in Pima and Santa Cruz counties. Following the conclusion of that litigation, on October 30, 1985, the Buckeye Irrigation Company filed a petition, granted by the Superior Court, for the inclusion of those portions of the Santa Cruz River watershed.

In April 1979, the Legislature amended the general adjudication procedures. Under these amendments, the Salt River, Verde River, and Gila River adjudications were transferred from the State Land Department to the Maricopa County Superior Court. The San Pedro River adjudication was transferred to the Cochise County Superior Court. In November 1981, the Arizona Supreme Court consolidated these adjudications into one proceeding assigned to the Maricopa County Superior Court under the caption *In re the General Adjudication of All Rights to Use Water in the Gila River System and Source*, Nos. W-1, W-2, W-3 & W-4 (Consolidated).

Under the amended statutes, the Little Colorado River Adjudication was transferred to the Apache County Superior Court where it is litigated under the caption *In re the General Adjudication of All Rights to Use Water in the Little Colorado River System and Source*, No. 6417.

These cases were assigned to the Maricopa and Apache County Superior Courts because these are the counties where the largest number of potential claimants reside. Pursuant to the amended statutes, summons were issued in both adjudications and served on potential claimants in each watershed. Copies of the summons were served upon all persons listed in the property tax assessments in each watershed and on all persons in the watershed who had, at the time, any kind of water rights filing on record with the Arizona Department of Water Resources (ADWR). In July 1984, a special notification was made to owners of registered wells in the Upper Salt River and San Pedro River watersheds. The summons required the filing of a statement of claimant with ADWR if the person claimed a water use in the watershed.

Each watershed in the Gila River system was noticed. The filing deadlines were:

Gila River Adjudication

Upper Salt - June 30, 1980
January 4, 1985 (groundwater claims)

San Pedro - July 11, 1980
January 4, 1985 (groundwater claims)

Agua Fria - November 1, 1985

Upper Gila - November 1, 1985

Verde - November 29, 1985

Lower Gila - January 20, 1987

Upper Santa Cruz - August 3, 1987

Little Colorado River Adjudication: December 23, 1985

More than 82,600 Statements of Claimant have been filed by over 24,000 parties in the Gila River Adjudication, and some 3,100 parties have filed 11,279 claims in the Little Colorado River Adjudication.

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Q: *Why does it seem that the adjudications have proceeded slowly?*

A: Evaluating the adjudications by the number of years that have passed since they began overlooks their significant accomplishments. Appellate courts have answered complex and thorny legal issues that for decades were not addressed, and efforts to resolve substantial Indian reserved right claims have been productive.

Prominent reasons account for the duration of the adjudications. First, the general adjudication statutes underwent substantial legislative changes in 1979 and in 1995. The [constitutionality](#) of several legislative amendments enacted in 1995 was litigated before the Arizona Supreme Court. During that litigation, proceedings in both adjudications were delayed until early 1999. Secondly, beginning in early 1979, issues related to the jurisdiction of state courts to adjudicate Indian reserved rights were litigated, ending in an opinion of the U.S. Supreme Court in 1983, and a decision of the Arizona Supreme Court in January 1985. Third, the Arizona Supreme Court accepted six [interlocutory appeals](#) (developed in proceedings before the Maricopa County Superior Court) on substantial and long-standing legal issues. To date, the Supreme Court has issued decisions on four appeals, with one appeal awaiting a decision. Parties filed two petitions for review with the U.S. Supreme Court following the interlocutory decisions of the Arizona Supreme Court (both petitions were denied). Fourth, major parties engaged in active efforts to resolve Indian and federal reserved rights by mutual settlement. To date, these efforts have resulted in the Maricopa County Superior Court's approval (following Congressional approval) of four settlement agreements of Indian reserved rights. Negotiations to resolve the water right claims of several other Indian tribes have actively continued for several years. Lastly, three watershed hydrographic survey reports and several technical reports (addressing both Indian and non-Indian water rights) have been published, and five comprehensive [superior court pretrial orders](#) and three Arizona Supreme Court [special procedural orders](#) have been issued.

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Q: *Who will be affected by the general stream adjudication?*

A: Any person or entity who uses water or has made a claim to use water, on property within the Gila River system or within the Little Colorado River system, potentially may be affected. The legislature has charged the Arizona Superior Court with quantifying and prioritizing validly existing water rights claimed in these watersheds. The final court decrees will establish the existence and ownership of claimed water rights, as well as important characteristics of the water rights including location of water uses, quantity of water used, and date of priority of the water rights.

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Q: *What is the position of Special Master?*

A: The Special Master is a judicial officer appointed by the Arizona Superior Court to hear cases arising out of the adjudications and report on legal and factual issues designated by the Superior Court. After resolving all the objections to the hydrographic survey reports, the Special Master will present a report and recommended final decree to the Superior Court judge assigned to each adjudication. After hearing and resolving any objections to the Special Master's report, the judges will issue the final decree for each watershed.

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Q: *What do I do if I did not file a statement of claimant?*

A: A statement of claimant may be filed, without leave of the Superior Court, before the conclusion of hearings by the Special Master for a subwatershed or federal reservation. After the Special Master has completed hearings on a subwatershed or federal reservation and has filed a report with the Superior Court for the entire subwatershed or federal reservation, a claimant must file a motion with the Superior Court for permission to intervene and file a statement of claimant. The court may grant the motion if it finds that the intervention would not unduly delay or prejudice the adjudication of the rights of the original parties.

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Q: *Can I amend a statement of claimant?*

A: A statement of claimant should always be current. A claim may be amended, without leave of the Superior Court, before the conclusion of hearings, by the Special Master, for a subwatershed or federal reservation. After the Special Master has completed hearings on a subwatershed or federal reservation or on the claim, and has filed a report with the Superior Court for the entire subwatershed or federal reservation, a claimant must file a motion with the Superior Court for permission to file an amended statement of claimant. The court will exercise its discretion to grant or deny the motion.

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Q: *What is a contested case?*

A: Each watershed file report and the objections filed against it will be organized into contested cases. This process was completed for the objections filed when the San Pedro River watershed and the Silver Creek watershed hydrographic survey reports were published. Each contested case will have a unique number (for example, W1-11-0123 in the San Pedro River watershed and 6417-033-9876 in the Silver Creek watershed). That number is used by the Clerk's offices for filing and reference. Any communication to the Special Master and to the parties in the case must include this number in the caption of the document.

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Q: *How does the Special Master choose which cases to hear first?*

A: Many parties will raise important legal issues with their objections to watershed file reports. Many of the same questions may be raised repeatedly in many watershed file reports. An individual contested case may be organized to address a specific issue or a set of related issues. In order to begin hearing cases in the San Pedro River watershed, for example, the Special Master chose watershed file reports which illustrated the same or similar issues. The decisions made in the few first cases will influence decisions made about the repeated objections made to other similarly situated watershed file reports.

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Q: *Who will participate in my contested case?*

A: The participants in a contested case are the landowner, objectors, other claimants of water, and any lessee, allottee, or permittee if the contested case involves public land (if that person is known to the Arizona Department of Water Resources. A motion to intervene must be filed and granted by the Special Master for others to participate. More limited participation is available for persons who want to comment to the Special Master as an *amicus curiae* (a Latin phrase meaning "friend of the court"). An *amicus* may file legal arguments or comments with the court, but is not a party to the litigation nor bound by the litigation.

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Q: *Will my water rights be determined in these contested cases?*

A: The purpose of each contested case is to determine the water rights in each watershed file report. After hearing objections about the Arizona Department of Water Resources' report, the Special Master will prepare a catalog of water rights for the watershed. Another objection period will be allowed. The Special Master will then go through a process to resolve that second set of objections. Finally, after those objections are resolved, the Special Master will submit a proposed decree to the Superior Court, reporting the water rights of all persons in the affected watershed.

Q: *All that is on my property is a well - do I have to participate?*

A: All persons using water or a well should file a statement of claimant.

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Q: *How can I communicate with the Special Master or other persons in my case?*

A: Once your particular contested case has been activated by a case management order, any written communication to the Special Master must be filed with the Superior Court Clerk's office. A copy of the document must also be provided to all persons who are litigants in your case. First-class mail is an acceptable way to file and serve your communication.

You may call the office of the Special Master for answers to procedural and scheduling questions. You may call the Arizona Department of Water Resources if you have questions about the contents of a watershed file report. You may call the Clerk of the Superior Court for Maricopa County or for Apache County for help with questions about filing documents in a case.

These persons cannot give you legal advice, as these offices are charged to remain neutral so that fair decisions can be made. Such decisions are possible only after everyone has a chance to bring forward their facts in a properly noticed hearing. You may talk about your particular case in a status conference or hearing before the Special Master.

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Q: *How can I protect myself in litigation with all these major parties who have extensive financial and technical resources? Will I need a lawyer?*

A: Adjudications are complex legal proceedings that affect valuable property rights: people's water rights. Like any lawsuit involving important legal issues, it is usually to your advantage to consult with qualified legal counsel early in the process. Even if you ultimately decide not to retain a lawyer, early consultation with an attorney will help you in making that decision.

You may wish to talk to some of the other individuals named in a contested case to see if your interests and positions are the same. If they are, you may wish to join together to assert a common position or retain a lawyer. You may learn that many of the major parties have competing positions and that some of the major parties, though not representing you, may support your position on a specific issue.

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Q: *What is the schedule?*

A: Proceedings in a contested case will include discovery, motions, prehearing conferences, and final hearing. A schedule of proceedings listing the dates and deadlines for each case will be issued with the first case management order or at the first conference with the Special Master. Any changes, revisions, and updates to the schedule will be made in a minute entry mailed to you from the Special Master. Also, the online [Arizona General Stream Adjudication Bulletin](#), posted on the Special Master's Web site in January, May, and September, provides a general summary of the contested cases, what has happened in these cases, and upcoming matters. You should review ALL documents received in the mail to keep track of important dates.

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Q: *Must I attend hearings and conferences? What happens if I don't?*

A: If you are notified that your case will be proceeding, you should attend all the conferences and hearings scheduled by the Special Master and all proceedings associated with your case.

If you do not attend court-ordered conferences or hearings, you may forfeit your opportunity to participate and be heard on the issues. You may be giving up your right to provide the Special Master with information necessary to determine your water rights. You may also be forfeiting your opportunity to argue a position that is shared by many other water users in the stream adjudications. Also, if your failure to attend conferences or hearings interferes with the judicial process, the Special Master can impose sanctions against you including, but not limited to, his refusal to recognize your water rights in the adjudication.

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Q: *What is discovery?*

A: Discovery refers to a set of prehearing procedures that can be used by one party to obtain facts and information about the case from another party or from other persons. These procedures include the provision of information in response to a court-approved disclosure checklist, interrogatories (written questions addressed to another party), requests for admission (written questions addressed to another party requiring a "true" or "false" response), requests for the production of documents, requests for inspection (such as the inspection of a water source), and depositions (oral questions asked of a party or witness, with the responses recorded by a court reporter and, in some instances, on video tape).

Discovery is allowed in these water adjudications both by the Arizona Rules of Civil Procedure and the Rules for Proceedings Before the Special Master. If you are a litigant in a case, you may be able to use these discovery procedures to obtain information important to the preparation of your case from other parties or other persons. You may first be required to provide information in response to a disclosure checklist set forth in a case management order. You also may be required to provide additional answers to interrogatories or requests for admission submitted by other parties, to submit to an oral deposition, or to provide other information.

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Q: *What is a Court-approved mailing list?*

A: The Court-approved mailing list is the official list of persons recognized by the Superior Court or the Special Master as having standing to participate in a particular case. The list includes the litigants and persons participating as *amici curiae* ("friends of the court").

The list and updates will be mailed by the Court Clerk or the Special Master to all persons appearing on the list. All persons participating in a contested case are obligated to mail a copy of any correspondence or pleadings to all persons on the list. Service of pleadings must be accomplished by personal delivery or first-class mail properly addressed.

It is the obligation of all persons participating to notify the Court Clerk and the Special Master, in writing, of any change of address. Always be sure you use the correct [Court-approved mailing list](#) for the case in which you are participating.

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Q: *What is a docket? Where can I get a copy of the docket?*

A: The docket is the chronological record the Clerk's office keeps of every document filed in the adjudication. The entries on the docket tell the date of filing and provide a short summary of the contents in each document. A monthly docket subscription is available through the [Arizona Department of Water Resources](#) for \$12.00 per year. The docket subscription covers pleadings that pertain to the general structure and organization of the adjudication (Case No. W-1 in the Gila River adjudication and Case No. 6417 in the Little Colorado adjudication) and proceedings in individual contested cases. The online [Arizona General Stream Adjudication Bulletin](#) also provides summary information about developments in important contested cases.

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Q: *What do I need to do to protect my interests?*

A: There are seven basic steps to protect your interests. While these steps will not ensure that you will be awarded the water rights to which you believe you are entitled, the steps will enable you to be heard on the matters that are important to you.

1. Be sure that a statement of claimant has been filed for the water rights to which you believe you are entitled. Call or visit the [Arizona Department of Water Resources](#) (ADWR) to determine whether your water rights have been claimed, and if not, for information about filing a statement of claimant.

2. Keep your statement of claimant current. Amend and update a statement when new information is obtained.

3. Monitor developments in the adjudication proceedings. The online [Arizona General Stream Adjudication Bulletin](#), published in January, May, and September and special reports, provides information about pending cases that raise important legal issues and a schedule of upcoming proceedings. You can subscribe to the monthly docket (a summary of pleadings and other documents) which costs \$12.00 per year and is distributed by ADWR. You can ask to be placed on the Court-approved mailing list. You may obtain information about a docket subscription and the Court-approved mailing lists by contacting ADWR.

4. Review all the documents that relate to the watershed file report (WFR) in which you are interested. Whether you are a landowner, claimant, or objector, you should study the WFR, all the statements of claimant that are reported there, all the objections to the WFR, and ADWR's working files. The hydrographic survey reports, which include the WFRs, are comprehensive documents which require some expertise to use well. Each volume of the hydrographic survey report contains explanatory information about how to use the report, and ADWR staff are available to help you understand its contents and your WFR.

5. Participate in all the proceedings relating to the WFR in which you are interested. Once that WFR has been designated for active litigation in a contested case, you should attend all the conferences and hearings scheduled by the Special Master. You should promptly review and respond to all legal notices and pleadings that are sent to you. Some pleadings (for example, interrogatories or questions sent by another litigant) must be responded to within a certain time period with consequences if a response is not made. Never assume that another person (unless that person is your attorney) will represent your interests. You or your attorney must be present to assert your position or interests.

6. Consider retaining an attorney to advise you or represent you in these proceedings. General stream adjudications are complex legal proceedings. While not every person in the adjudications needs an attorney to participate effectively, many persons may benefit by having assistance or representation. Consider consulting with an attorney for assistance in understanding the proceedings and your interests in the adjudications. You will then be able to make an informed decision on whether you need to retain an attorney to represent you in the remainder of the proceedings.

7. Keep ADWR informed of your current address. The court uses ADWR's records for mailing notices and other legal documents. It is your responsibility to notify ADWR of any changes in your address.

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Q: *Where can I go for more information?*

A: For information about hydrographic survey reports, specific watershed file reports, copies of pleadings, filing or reviewing discovery information, or obtaining other publications and reference material concerning the adjudications:

Arizona Department of Water Resources
500 North Third Street, Phoenix, AZ 85004-3903
(602) 417-2442 (Phoenix area)
1-(800) 352-8488 or 1-(866)-246-1414 (toll free inside Arizona)

For information about filing pleadings, reviewing contested case files, obtaining copies of pleadings, or ordering a docket for an individual contested case:

Gila River Adjudication

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003
(602) 506-4139 or 506-1155

Little Colorado River Adjudication

Clerk of the Superior Court
Apache County
Attn: Water Case
P. O. Box 365
St. Johns, AZ 85936
(928) 337-4364

For public information about procedures being used in the adjudications, scheduling motions, upcoming events and proceedings, and other administrative matters contact the [office of the Special Master](#).

You may purchase the Rules for Proceedings Before the Special Master (November 1, 1991) (\$5.00), which provides detailed information about the procedures being followed in the

adjudications, from the [office of the Special Master](#).

The hydrographic survey reports will be available for purchase and review at ADWR's Phoenix office. Copies of published hydrographic survey reports are available for review at the Maricopa County Superior Court Clerk's Office, the Apache County Superior Court Clerk's Office, ADWR's field offices, and at libraries throughout the state.

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